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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,629	08/29/2001	Toshiya Takahashi	2001-1215A	5593

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SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER

TOPGYAL, GELEK W

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/940,629	TAKAHASHI, TOSHIYA	
	Examiner	Art Unit	
	Gelek Topgyal	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-36 is/are pending in the application.
- 4a) Of the above claim(s) 9-22, 24, 25, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/14/2007 have been fully considered but they are not persuasive.
2. In re pages 7-9, the applicant present the sole argument that Sampsell fails to disclose or suggest (1) combining the auxiliary information with the first digital data generated when the interface receives the auxiliary information input, and (2) generating second digital data comprised of the combined auxiliary information and first digital data as recited in newly added independent claim 29. Furthermore, the applicants support their argument by stating that Sampsell teaches a system where the label is added after the photograph or video clips have been compressed and stored on storage device.
3. In response, the examiner respectfully disagrees. The language in newly added independent claims 29, 35 and 36 do not recite the existence of a storage medium, only has language to support the generating of a "second digital data" when the auxiliary information is received. The claim language does not limit the system to only combine before the storing of the image information and the auxiliary information. The combining of the image part and the auxiliary information can take place before or after the system receives the auxiliary information. Therefore, independent claim 29, and similar independent claims 35 and 36, and dependent claims 30-34 remain rejected as being anticipated by Sampsell.

Claim Rejections - 35 USC § 112

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4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claim 29** recites the limitation "... said information device..." in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Claims that recite nothing but the physical characteristics of a form or energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101.

... a signal does not fall within one of four statutory classes of 101.

... signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of Sec. 101.

Claim 36 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 36 defines a program recorded on a recording medium with descriptive material. While "functional descriptive material" may be claimed as a statutory product ("i.e., a "manufacture") when embodied on a tangible computer readable medium, a "program" embodying that same functional descriptive material is neither a process nor a product (i.e., a tangible "thing") and therefore does not fall within one of the four statutory classes of § 101. Rather, "signal" is a form of energy, in the absence of any physical structure or tangible material.

It is recommended that the applicants amend claim 36 to recite "A computer readable recording medium encoded with/storing/recorded with a program for causing a computer to...".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 29-30, 32-33, and 35-36** are rejected under 35 U.S.C. 102(e) as being anticipated by Sampsell (US 6,614,988).

Regarding claim 29, Sampsell teaches an imaging device for adding auxiliary information to digital data, said imaging device comprising:

an interface device operable to receive an externally generated image input, and operable to receive an auxiliary information input (col. 3, line 39 through col.4, line 23 teaches a digital camcorder 110 that receives auxiliary information via the natural language interface 12 and image input from the CCD camera);

an imaging device operable to capture and photoelectrically convert an image into an image signal when said interface device receives the externally generated image

input (Figure 4 and col. 5, lines 20-33 teaches a CCD camera 120 and an analog-to-digital converter 124);

a coding device operable to generate first digital data by compressing the image signal created by said imaging device when said interface device receives the externally generated image input (Figure 4 and col. 5, lines 20-33 teaches a compressor 126 that compresses the image signal created by the CCD camera); and

a digital data generation device operable to combine, when said interface device receives the auxiliary information input (col. 3, line 39 through col.4, line 23 teaches where the user can enter labeling information through the natural language interface 12), the auxiliary information with the first digital data corresponding to the image captured and photoelectrically converted by said imaging device when said information device receives the auxiliary information input, and generate second digital data comprised of the combined auxiliary information and first digital data (col. 5, lines 20-33 teaches two situations where the label is 1) stored within the video information as an overlaid image or 2) that the label is stored in the data track of the video tape 128).

Regarding claim 30, Sampsell teaches the claimed wherein interface device includes an identifier input part operable to identify the first digital data (As discussed in claim 29 above, the natural language interface 12 is used to identify a certain portion of video so that labeling can be performed), and wherein the auxiliary information identifies the first digital data according to said identifier input part (As discussed above, Sampsell teaches that the natural language interface 12 label a portion with a certain label, thereby identifying the corresponding video data).

Regarding claim 32, Sampsell teaches the claimed wherein said digital data generation device is operable to insert the auxiliary information into a header portion of the first digital data, and operable to generate the second digital data comprised of the first digital data and the auxiliary information inserted into the header portion of the first digital data (As discussed in claim 29 above, Sampsell teaches in col. 5, lines 20-33 teaches 2) that the label is stored in the data track of the video tape 128. The data portion of a conventional tape can be located before the video data, hence it functions as a header to the video data).

Regarding claim 33, Sampsell teaches the claimed wherein said imaging device is integrated into a camera (As discussed above in claim 29, the CCD camera 120 is included in the digital camcorder 110).

Claims 35 and 36 are rejected for the same reasons as discussed above in device claim 29.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 31** is rejected under 35 U.S.C. 103(a) as being unpatentable over Sampsell (US 6,614,988) in view of Miyasaka et al. (US 5,493,647).

Regarding claim 31, Sampsell teaches the limitations as discussed in claim 29 above, however fails to particularly teach wherein said interface device includes a

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microphone operable to receive audio, and wherein the auxiliary information indicates a level of audio received by said microphone.

It is noted that microphones are conventional and old in the art to be incorporated on the camcorder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a conventional microphone into the camcorder so that audio generated of the scene can be recorded with the video.

In an analogous art, Miyasaka et al. teaches in col. 12, lines 6-26 wherein attributes of the level data of a quantized audio signal is stored in an auxiliary information storage area.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ability to incorporate the ability to recorded the attribute of the level data of a quantized audio signal into the system of Sampsell so that the system can use the information to increase memory space by writing over non significant audio parts stored higher level audio parts.

11. **Claim 34** is rejected under 35 U.S.C. 103(a) as being unpatentable over Sampsell (US 6,614,988).

Regarding claim 34, Sampsell teaches the claimed as discussed in claim 29 above, however fails to particularly teach wherein the imaging device is integrated into a mobile phone.

It is well known and old in the art to incorporate imaging devices, such as CCD cameras into mobile phones. It would have been obvious to one of ordinary skill in the

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art at the time the invention was made to incorporate the ability to incorporate imaging device, such as CCD cameras into mobile phones to increase portability.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

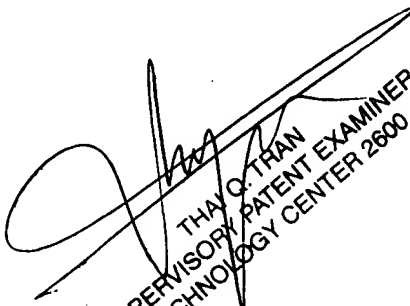
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gelek Topgyal whose telephone number is 571-272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GT
5/2/2007



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